

REMARKS

Claims 1, 67-77, 107, 109 and 123 are amended. No new claims are added. Claims 108, 121 and 124 are cancelled without prejudice. Claims 78-106 were previously withdrawn. Applicant expressly reserves the right to pursue the cancelled claims in one or more continuation or divisional applications.

Claims 1-77, 107, 109-120 and 122-123 are pending for consideration. In view of the following amendments and remarks, Applicant respectfully requests that this application be allowed and forwarded on to issuance.

Examiner Interview

Applicant respectfully thanks the Examiner for the time spent discussing the disposition of this case on April 25, 2007 with Applicant's representative via telephone. During the discussion, Applicant and the Examiner discussed the cited art and some claim modifications that would potentially receive favorable treatment by the Examiner. Applicant appreciates the cooperative tone over the interview overall. However, no final agreement was reached during the telephonic interview. While Applicant believes that such modifications are unnecessary, in the spirit of advancing prosecution of this matter, Applicant has made the clarifying amendments listed above and discussed below.

Restriction / Election

A restriction under 35 U.S.C. § 121 was issued earlier in prosecution. Specifically, the Office designated two groups of claims as follows:

- I. Claims 1-77 and 107-124; and
- II. Claims 78-106.

1 Applicant acknowledges that an election of Group I, corresponding to
2 claims 1-77 and 107-124, was made by way of telephone conversation with
3 Applicant's representative in January, 2007. Applicant further acknowledges that
4 such election was made with traverse. Thus, claims 78-106 are presently
5 withdrawn from consideration. Please refer to pages 2-3 of Office action.

6 7 **§ 101 Rejections**

8 Claims 68-77 stand rejected under 35 U.S.C. § 101 as being, in the view of
9 the Office, directed to non-statutory subject matter. Specifically, claim 68 recites
10 "photo-realistic motion video..." that is alleged to be either a moving picture or a
11 video signal (Page 4 of Office action). Claims 69-77 are rejected for similar
12 reasons.

13 Claims 68-77 have been amended as indicated above. Specifically, claims
14 68-77 have been respectively amended to recite "one or more machine-readable
15 storage media...". These amendments were discussed during the telephonic
16 interview cited above. Applicant believes that the subject matter recited by claims
17 68-77, as amended, is well within statutory bounds and respectfully requests that
18 the § 101 rejection of claims 68-77 be withdrawn.

19 20 **§ 102 and § 103 Rejections**

21 Claims 1-2, 4, 7-9, 14-15, 67, 107, 109-110, 112, 116-117, 119-120 and
22 123 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent
23 No. 6,850,245 ("Murashita").

24 Claims 34, 37-38, 44-55 and 68-77 stand rejected under 35 U.S.C. § 102(e)
25 as being anticipated by U.S. Patent No. 6,771,323 ("Dean").

1 Claims 10-11, 16-33, 35, 39-43, 56-66, 108, 113-115, 118, 121, 122 and
2 124 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Murashita
3 in view of Dean.

4 Claims 3, 5-6, 12-13 and 111 stand rejected under 35 U.S.C. § 103(a) as
5 being unpatentable over Murashita, in view of U.S. Patent No. 6,930,730
6 ("Maxon").

7 Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable
8 over Dean in view of Maxon.

9 10 The Claims

11 **Claim 1** has been amended and, as amended, recites one or more computer-
12 readable media comprising computer-executable instructions that perform the
13 following when executed by a computer:

- 14
- 15 • determine a type or a connection type of a display in use by a
16 computer, *wherein the computer-executable instructions are
17 configured such that both a type and a connection type of the
18 display in use by the computer can be determined*; and
 - 19 • present, based on the type or the connection type of the display,
20 instructions to aid a user in calibrating the display.

21 Applicant respectfully disagrees and traverses the Office's rejection.

22 Specifically, Murashita fails to provide computer-executable instructions
23 are configured such that both a type and a connection type of the display in use by
24 the computer can be determined, as recited by the subject matter of claim 1, as
25 amended.

Rather, Murashita is directed to user-assisted recognition of various
characteristics during adjustment of an electronic display (Abstract of Murashita).

1 Murashita provides that display type identification (i.e., CRT or LCD) can be
2 made based on user input (Fig. 7 of Murashita). However, Murashita is
3 completely lacking any provisions directed to determining a connection type of a
4 display. In fact, the term "connection", or any of its respective equivalents, are
5 completely lacking from Murashita.

6 In order to clarify the foregoing difference between the teachings of
7 Murashita and the subject matter of claim 1 (as amended), select provisions from
8 the pending Application are reproduced below for convenience:

9
10 The system 300 can stop here or continue to gather information from the
11 user, such as a connection type for the user's display. At block 524, the
12 system 300 presents television and computer connection types. Television
13 connection types can include an S-video cable, a coaxial cable, a composite
14 cable, and the like. Computer connection types can include those for DVI
15 and VGA, as well as many-pronged connectors, universal connectors, and
16 wireless connectors, to name a few. (Page 16, lines 17-23 of Application).

17 In any case, Murashita fails to address or provide any information in regard
18 to connection types for a display.

19 Applicant asserts that the § 102 rejection of claim 1, as amended, is
20 unsupportable and must be withdrawn. Applicant further asserts that claim 1, as
21 amended, is allowable.

22 **Claims 2-33** are allowable as depending from an allowable base claim.
23 While the respective rejections of claims 2-33 have been fully considered, they are
24 not seen as contributing anything of merit in view of the allowability of claim 1, as
25 amended.

1 **Claim 34** recites one or more computer-readable media comprising
2 computer-executable instructions that perform the following when executed by a
3 computer:

- 4 • *present one or more photo-realistic motion videos to a user to aid*
5 *the user in calibrating a computer display.*

6 Applicant respectfully disagrees and traverses the Office's rejection.

7 Specifically, Dean fails to provide one or more photo-realistic motion
8 videos to a user to aid the user in calibrating a computer display, as recited by the
9 subject matter of claim 34.

10 Rather, Dean is directed to calibrating audio and video aspects of a display
11 device, wherein static (non-moving) visual test patterns and audio tracks are
12 presented during the setup or calibration task. For example, Dean provides:

13 Video calibration according to the present invention may include multiple
14 elements. Referring now to FIG. 8, a first element of a video calibration
15 may include aspect ratio test and setting. In a currently preferred
16 embodiment of the present invention window 58 is used to prompt a user to
17 adjust the aspect ration of the playback system. Video calibration may also
18 include calibration of other characteristics of the video display such as
19 calibration of brightness, contrast, color or chroma, and tint or phase. In a
20 currently preferred embodiment of the present invention brightness,
21 contrast, color and tint are calibrated. (Col. 11, lines 34-44 of Dean).

22 Referring now to FIG. 9, a window such as window 60 may be used to
23 prompt a user to adjust video controls to calibrate selected aspects of the
24 video display. Window 60 may be used to prompt a user to adjust
25 brightness, contrast, or tint and color. Tint and color may be adjusted using
a combined window. In a currently preferred embodiment of the present
invention the order of calibration should be contrast first, brightness
second, and then either tint or color. (Col. 11, lines 45-52 of Dean).

1 Close inspection of Figs. 8 and 9 of Dean reveal instructions to a user to
2 start and stop a DVD player, view colored boxes or bars, etc., presented on a
3 display screen during a setup/adjustment routine. However, nowhere does Dean
4 suggest that any sort of motion video or animation is involved. In fact, Dean is
5 totally devoid of the terms "motion", "movement", "motion video", "animation",
6 or any of their respective equivalents, in any context or for any reason.

7 Contrastingly, the present Application provides at least that:

8 The calibration tool also enables a user to more easily and intuitively
9 calibrate his or her display by presenting a **motion video** tailored to help
10 the user calibrate a parameter of the display. This **motion video** can be
11 **photo-realistic**, rather than appear technical in nature, which is more
12 intuitive to many users. Also, instead of requiring the user to understand
13 how a technical and/or computer-generated testing screen should look to
14 optimize his or her display, the user instead can use something he or she
intuitively understands to do so. In addition, **the motion video is moving**,
which further enables a user to more easily calibrate his or her display for
viewing movies, television, and the like. (Page 3, lines 3-11 of
Specification. Emphasis added.).

15 Second, the video 200 helps the user calibrate his display's centering and
16 sizing parameters by how it is structured. The video 200, even **while**
17 **showing people and objects in motion**, has certain unmoving (or only
18 slightly moving) objects to aid the user. Both of the pool cues, a left pool
19 cue 202 and a right pool cue 204 are partially shown and very thin. This
20 aids the user because if the user calibrates the display to show the video 200
21 slightly too large, the pool cues will disappear, even with a very slight
22 calibration error. Likewise, the left pool cue 202 will disappear if the video
23 200 is only very slightly moved too far left by the user's centering
24 calibration. Similarly, the right pool cue 204 will disappear if the video
25 200 is only very slightly moved too far right. Also, if the user calibrates the
display only slightly too far up or down, a left woman's head 206 or a left
woman's heels 208 will be cut off. As a more general aid, the video 200
shows users a small 4x3 video 210 that shows how their display should
look when the centering and sizing parameters are optimized. (Page 8, line
13 to page 9, line 2 of Specification. Emphasis added.).

1 The immediately foregoing excerpts indicate that a photo-realistic motion
2 video includes various kinds of real life entities (e.g., people, etc), at least some of
3 which are in motion. Thus, a photo-realistic motion video includes a real-world
4 scene comprising stationary and moving reference objects that are intuitive to a
5 user and operate in a synergistic manner to facilitate a display adjustment process.
6 Dean fails to provide, teach or suggest any such photo-realistic motion video or its
7 content; Dean instead relying on traditional test patterns and other static visual
8 techniques (Abstract of Dean et seq.).

9 In any case, Dean fails to provide for any sort of photo-realistic motion
10 video, as described by the pending Specification and as recited by the subject
11 matter of claim 34. Applicant asserts that the § 102 rejection of claim 34 is
12 unsupportable and must be withdrawn. Applicant further asserts that claim 34 is
13 allowable.

14 **Claims 35-55** are allowable as depending from an allowable base claim.
15 While the respective rejections of claims 35-55 have been fully considered, they
16 are not seen as contributing anything of merit in view of the allowability of
17 claim 34.

18 **Claim 56** recites a method comprising:

- 19 • determining a type of a display; and
20 • *presenting, based on the type of the display, one or more photo-*
21 *realistic motion videos to aid a user in calibrating the display.*

22 Applicant respectfully disagrees and traverses the Office's rejection.

23 Firstly, neither Murashita nor Dean – alone or in any possible combination
24 – teaches or all of the respectively recited features and limitations of claim 56.
25 Secondly, even *if* Murashita and/or Dean did teach or suggest all of the required

1 features and limitations, any attempt to modify either reference (in view of the
2 other) would require an impermissible change in the operating principle of the
3 modified base reference.

4
5 **A. Murashita and Dean Fail to Disclose Claimed Subject Matter**

6 In particular regard to the first point, Murashita fails to teach or suggest
7 presenting, based on the type of the display, one or more photo-realistic motion
8 videos to aid a user in calibrating the display, as recited by claim 56. Murashita is
9 devoid of the terms “motion”, “movement”, “motion video”, “animation”, or any
10 of their respective equivalents, in any context or for any purpose. Rather
11 Murashita is directed to static entities and simple user queries (e.g., Figs. 7-9 of
12 Murashita).

13 Dean fails to cure the deficiencies of Murashita. Specifically, Dean fails to
14 teach or suggest presenting, based on the type of the display, one or more photo-
15 realistic motion videos to aid a user in calibrating the display, as recited by claim
16 56. As argued above, Dean is completely lacking any teachings directed to a
17 photo-realistic motion video.

18 There is no way to select elements from Murashita, and then to somehow
19 combine those with other elements selected from Dean, in order to arrive at the
20 subject matter recited by claim 56, as no possible combination of Murashita and
21 Dean teaches or suggest all of the required features and limitations. At the very
22 least, no possible combination of Murashita and Dean teaches or suggests
23 presenting, based on the type of the display, one or more photo-realistic motion
24 videos to aid a user in calibrating the display. The § 103 rejection of claim 56 is
25 invalid and must be withdrawn for at least the foregoing reasons.

1 **B. Assertion to Modify References Impermissible**

2 Assuming *for the sake of argument alone* that Murashita, when combined
3 with Dean, does teach all of the required features (which it does not), the Office
4 has nevertheless proposed a combination that is impermissible.

5 The Office states that “it would have been obvious... to modify the display
6 termination taught by Murashita to include the motion video taught by Dean...”
7 (Page 29 of Office action). Thus, the Office asserts a specific modification of
8 Murashita in view of Dean. However, such a modification would require a change
9 in the principle of operation of Murashita. Such a modification is impermissible in
10 view of MPEP 2143.01(VI).

11 In particular, Murashita is directed to presenting methods and means
12 wherein *static* visual entities (e.g., colored objects, test bars, etc.) and simple user-
13 choice queries are used as part of a display adjustment procedure. That is,
14 Murashita is directed to a basic, non-moving-image approach and does not teach
15 or suggest any photo-realistic motion video(s) be displayed. For example,
16 Murashita is completely lacking any information regarding: storage media; access
17 or playback of a photo-realistic motion video; persons or other content suitable or
18 desirable for presentation in such a photo-realistic motion video; etc. Therefore,
19 any assertion that Murashita can be modified to include and constructively utilize
20 a photo-realistic motion video is unsupported in view of the deficiencies and
21 substantially different subject matter of Murashita.

22 In view of the foregoing, Applicant asserts that the § 103 rejection of claim
23 56 is unsupportable and must be withdrawn. Applicant further asserts that claim
24 56 is allowable.
25

1 **Claims 57-66** are allowable as depending from an allowable base claim.
2 While the respective rejections of claims 57-66 have been fully considered, they
3 are not seen as contributing anything of merit in view of the allowability of
4 claim 56.

5 **Claim 67** has been amended and, as amended, recites one or more
6 computer-readable media comprising computer-executable instructions that
7 perform the following when executed by a computer:

- 8 • *present instructions to a user to aid the user in calibrating a*
9 *computer display of a particular type*, wherein the instructions
10 presented are tailored to aid calibration of computer displays of that
11 particular type, and *wherein the instructions correspond to one or*
12 *more photo-realistic motion videos.*

13 Applicant respectfully disagrees and traverses the Office's rejection.

14 Specifically, Murashita fails to present instructions to a user to aid the user
15 in calibrating a computer display of a particular type, and wherein the instructions
16 correspond to one or more photo-realistic motion videos, as recited by the subject
17 matter of claim 67, as amended. More to the point, and as argued above,
18 Murashita fails to provide, teach or suggest one or more photo-realistic motion
19 videos.

20 In view of the foregoing, Applicant asserts that the § 102 rejection of claim
21 67, as amended, is unsupportable and must be withdrawn. Applicant further
22 asserts that claim 67, as amended, is allowable.

23 **Claim 68** has been amended and, as amended, recites one or more
24 machine-readable storage media comprising:
25

- *a photo-realistic motion video capable of aiding a user to optimally calibrate a parameter of a video display.*

Applicant respectfully disagrees and traverses the Office's rejection.

Specifically, Dean fails to provide a photo-realistic motion video capable of aiding a user to optimally calibrate a parameter of a video display, as recited by the subject matter of claim 68, as amended. As argued above, Dean is directed to various non-moving calibration display patterns, and does not contemplate any photo-realistic motion video.

In view of the foregoing, Applicant asserts that the § 102 rejection of claim 68, as amended, is unsupportable and must be withdrawn. Applicant further asserts that claim 68, as amended, is allowable.

Claims 69-77, as respectively amended, are allowable as depending from an allowable base claim. While the respective rejections of claims 69-77 have been fully considered, they are not seen as contributing anything of merit in view of the allowability of claim 68 (as amended).

Claim 107 has been amended and, as amended, recites a system comprising:

- a display having a screen capable of displaying display-type options;
- a user-input device capable of enabling a user to select one of the display-type options;
- a display calibration application capable of receiving the selected display-type option and determining instructions to aid the user in calibrating the display based on the selected display-type option, *wherein the instructions include one or more photo-realistic motion videos*, and wherein the display is further capable of displaying the instructions; and
- a computer capable of executing the display calibration application.

Applicant respectfully disagrees and traverses the Office's rejection.

1 Specifically, Murashita fails to provide instructions [that] include one or
2 more photo-realistic motion videos, as recited by the subject matter of claim 107,
3 as amended. As argued above, Murashita does not contemplate any photo-realistic
4 motion video.

5 In view of the foregoing, Applicant asserts that the § 102 rejection of claim
6 107, as amended, is unsupportable and must be withdrawn. Applicant further
7 asserts that claim 107, as amended, is allowable.

8 **Claim 109** has been amended and, as amended, recites a method
9 comprising:

- 10 • presenting graphics that illustrate multiple display types;
- 11 • receiving a selection of one of the multiple display types; and
- 12 • presenting, based on the selected display type, instructions to aid a
13 user in calibrating a display of the selected display type, *wherein the*
14 *presenting instructions include presenting a photo-realistic motion*
video.

15 Applicant respectfully disagrees and traverses the Office's rejection.

16 Specifically, Murashita fails to provide presenting instructions include
17 presenting a photo-realistic motion video, as recited by the subject matter of claim
18 109, as amended.

19 In view of the foregoing, Applicant asserts that the § 102 rejection of claim
20 109, as amended, is unsupportable and must be withdrawn. Applicant further
21 asserts that claim 109, as amended, is allowable.

22 **Claims 110-120 and 122** are allowable as depending from an allowable
23 base claim. While the respective rejections of claims 110-120 and 122 have been
24 fully considered, they are not seen as contributing anything of merit in view of the
25 allowability of claim 109 (as amended).

1 **Claim 123** has been amended and, as amended, recites an apparatus
2 comprising:

- 3 • means for determining a type or a connection type of a display in use
- 4 by a computer; and
- 5 • means for presenting, based on the type or the connection type of the
- 6 display, instructions to aid a user in calibrating the display, *wherein*
- 7 *the instructions include one or more photo-realistic motion videos.*

8 Applicant respectfully disagrees and traverses the Office's rejection.

9 Specifically, Murashita fails to provide instructions include one or more
10 photo-realistic motion videos, as recited by the subject matter of claim 123, as
11 amended.

12 In view of the foregoing, Applicant asserts that the § 102 rejection of claim
13 123, as amended, is unsupportable and must be withdrawn. Applicant further
14 asserts that claim 123, as amended, is allowable.

1 **Conclusion**

2 The claims are in condition for allowance. Accordingly, Applicant requests
3 a Notice of Allowability be issued forthwith. If the Office's next anticipated
4 action is to be anything other than issuance of a Notice of Allowability, Applicant
5 respectfully requests a telephone call for the purpose of scheduling an interview.
6

7 Respectfully submitted,

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